



Sen. Kirk W. Dillard

**Filed: 4/8/2011**

09700SB2301sam001

LRB097 10014 RLC 53646 a

1 AMENDMENT TO SENATE BILL 2301

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 2301 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Criminal Code of 1961 is amended by  
5 changing Section 17-10.6 as follows:

6 (720 ILCS 5/17-10.6)

7 (Text of Section before amendment by P.A. 96-1532)

8 Sec. 17-10.6. Financial institution fraud.

9 (a) Misappropriation of financial institution property. A  
10 person commits misappropriation of a financial institution's  
11 property whenever he or she knowingly obtains or exerts  
12 unauthorized control over any of the moneys, funds, credits,  
13 assets, securities, or other property owned by or under the  
14 custody or control of a financial institution, or under the  
15 custody or care of any agent, officer, director, or employee of  
16 such financial institution.

1 (b) Commercial bribery of a financial institution.

2 (1) A person commits commercial bribery of a financial  
3 institution when he or she knowingly confers or offers or  
4 agrees to confer any benefit upon any employee, agent, or  
5 fiduciary without the consent of the latter's employer or  
6 principal, with the intent to influence his or her conduct  
7 in relation to his or her employer's or principal's  
8 affairs.

9 (2) An employee, agent, or fiduciary of a financial  
10 institution commits commercial bribery of a financial  
11 institution when, without the consent of his or her  
12 employer or principal, he or she knowingly solicits,  
13 accepts, or agrees to accept any benefit from another  
14 person upon an agreement or understanding that such benefit  
15 will influence his or her conduct in relation to his or her  
16 employer's or principal's affairs.

17 (c) Financial institution fraud. A person commits  
18 financial institution fraud when he or she knowingly executes  
19 or attempts to execute a scheme or artifice:

20 (1) to defraud a financial institution; or

21 (2) to obtain any of the moneys, funds, credits,  
22 assets, securities, or other property owned by or under the  
23 custody or control of a financial institution, by means of  
24 pretenses, representations, or promises he or she knows to  
25 be false.

26 (d) Loan fraud. A person commits loan fraud when he or she

1 knowingly, with intent to defraud, makes any false statement or  
2 report, or overvalues any land, property, or security, with the  
3 intent to influence in any way the action of a financial  
4 institution to act upon any application, advance, discount,  
5 purchase, purchase agreement, repurchase agreement,  
6 commitment, or loan, or any change or extension of any of the  
7 same, by renewal, deferment of action, or otherwise, or the  
8 acceptance, release, or substitution of security.

9 (e) Concealment of collateral. A person commits  
10 concealment of collateral when he or she, with intent to  
11 defraud, knowingly conceals, removes, disposes of, or converts  
12 to the person's own use or to that of another any property  
13 mortgaged or pledged to or held by a financial institution.

14 (f) Financial institution robbery. A person commits  
15 robbery when he or she knowingly, by force or threat of force,  
16 or by intimidation, takes, or attempts to take, from the person  
17 or presence of another, or obtains or attempts to obtain by  
18 extortion, any property or money or any other thing of value  
19 belonging to, or in the care, custody, control, management, or  
20 possession of, a financial institution.

21 (g) Conspiracy to commit a financial crime.

22 (1) A person commits conspiracy to commit a financial  
23 crime when, with the intent that any violation of this  
24 Section be committed, he or she agrees with another person  
25 to the commission of that offense.

26 (2) No person may be convicted of conspiracy to commit

1 a financial crime unless an overt act or acts in  
2 furtherance of the agreement is alleged and proved to have  
3 been committed by that person or by a co-conspirator and  
4 the accused is a part of a common scheme or plan to engage  
5 in the unlawful activity.

6 (3) It shall not be a defense to conspiracy to commit a  
7 financial crime that the person or persons with whom the  
8 accused is alleged to have conspired:

9 (A) has not been prosecuted or convicted;

10 (B) has been convicted of a different offense;

11 (C) is not amenable to justice;

12 (D) has been acquitted; or

13 (E) lacked the capacity to commit the offense.

14 (h) Continuing financial crimes enterprise. A person  
15 commits a continuing financial crimes enterprise when he or she  
16 knowingly, within an 18-month period, commits 3 or more  
17 separate offenses under this Section or, if involving a  
18 financial institution, any other felony offenses under this  
19 Code.

20 (i) Organizer of a continuing financial crimes enterprise.

21 (1) A person commits being an organizer of a continuing  
22 financial crimes enterprise when he or she:

23 (A) with the intent to commit any offense under  
24 this Section, or, if involving a financial  
25 institution, any other felony offense under this Code,  
26 agrees with another person to the commission of that

1 offense on 3 or more separate occasions within an  
2 18-month period; and

3 (B) with respect to the other persons within the  
4 conspiracy, occupies a position of organizer,  
5 supervisor, or financier or other position of  
6 management.

7 (2) The person with whom the accused agreed to commit  
8 the 3 or more offenses under this Section, or, if involving  
9 a financial institution, any other felony offenses under  
10 this Code, need not be the same person or persons for each  
11 offense, as long as the accused was a part of the common  
12 scheme or plan to engage in each of the 3 or more alleged  
13 offenses.

14 (j) Sentence.

15 (1) Except as otherwise provided in this subsection, a  
16 violation of this Section, the full value of which:

17 (A) does not exceed \$500, is a Class A misdemeanor;

18 (B) does not exceed \$500, and the person has been  
19 previously convicted of a financial crime or any type  
20 of theft, robbery, armed robbery, burglary,  
21 residential burglary, possession of burglary tools, or  
22 home invasion, is guilty of a Class 4 felony;

23 (C) exceeds \$500 but does not exceed \$10,000, is a  
24 Class 3 felony;

25 (D) exceeds \$10,000 but does not exceed \$100,000,  
26 is a Class 2 felony;

1 (E) exceeds \$100,000, is a Class 1 felony.

2 (2) A violation of subsection (f) is a Class 1 felony.

3 (3) A violation of subsection (h) is a Class 1 felony.

4 (4) A violation for subsection (i) is a Class X felony.

5 (k) A "financial crime" means an offense described in this  
6 Section.

7 (l) Period of limitations. The period of limitations for  
8 prosecution of any offense defined in this Section begins at  
9 the time when the last act in furtherance of the offense is  
10 committed.

11 (Source: P.A. 96-1551, eff. 7-1-11.)

12 (Text of Section after amendment by P.A. 96-1532)

13 Sec. 17-10.6. Financial institution fraud.

14 (a) Misappropriation of financial institution property. A  
15 person commits misappropriation of a financial institution's  
16 property whenever he or she knowingly obtains or exerts  
17 unauthorized control over any of the moneys, funds, credits,  
18 assets, securities, or other property owned by or under the  
19 custody or control of a financial institution, or under the  
20 custody or care of any agent, officer, director, or employee of  
21 such financial institution.

22 (b) Commercial bribery of a financial institution.

23 (1) A person commits commercial bribery of a financial  
24 institution when he or she knowingly confers or offers or  
25 agrees to confer any benefit upon any employee, agent, or

1           fiduciary without the consent of the latter's employer or  
2           principal, with the intent to influence his or her conduct  
3           in relation to his or her employer's or principal's  
4           affairs.

5           (2) An employee, agent, or fiduciary of a financial  
6           institution commits commercial bribery of a financial  
7           institution when, without the consent of his or her  
8           employer or principal, he or she knowingly solicits,  
9           accepts, or agrees to accept any benefit from another  
10          person upon an agreement or understanding that such benefit  
11          will influence his or her conduct in relation to his or her  
12          employer's or principal's affairs.

13          (c) Financial institution fraud. A person commits  
14          financial institution fraud when he or she knowingly executes  
15          or attempts to execute a scheme or artifice:

16                 (1) to defraud a financial institution; or

17                 (2) to obtain any of the moneys, funds, credits,  
18                 assets, securities, or other property owned by or under the  
19                 custody or control of a financial institution, by means of  
20                 pretenses, representations, or promises he or she knows to  
21                 be false.

22          (d) Loan fraud. A person commits loan fraud when he or she  
23          knowingly, with intent to defraud, makes any false statement or  
24          report, or overvalues any land, property, or security, with the  
25          intent to influence in any way the action of a financial  
26          institution to act upon any application, advance, discount,

1 purchase, purchase agreement, repurchase agreement,  
2 commitment, or loan, or any change or extension of any of the  
3 same, by renewal, deferment of action, or otherwise, or the  
4 acceptance, release, or substitution of security.

5 (e) Concealment of collateral. A person commits  
6 concealment of collateral when he or she, with intent to  
7 defraud, knowingly conceals, removes, disposes of, or converts  
8 to the person's own use or to that of another any property  
9 mortgaged or pledged to or held by a financial institution.

10 (f) Financial institution robbery. A person commits  
11 robbery when he or she knowingly, by force or threat of force,  
12 or by intimidation, takes, or attempts to take, from the person  
13 or presence of another, or obtains or attempts to obtain by  
14 extortion, any property or money or any other thing of value  
15 belonging to, or in the care, custody, control, management, or  
16 possession of, a financial institution.

17 (g) Conspiracy to commit a financial crime.

18 (1) A person commits conspiracy to commit a financial  
19 crime when, with the intent that any violation of this  
20 Section be committed, he or she agrees with another person  
21 to the commission of that offense.

22 (2) No person may be convicted of conspiracy to commit  
23 a financial crime unless an overt act or acts in  
24 furtherance of the agreement is alleged and proved to have  
25 been committed by that person or by a co-conspirator and  
26 the accused is a part of a common scheme or plan to engage

1 in the unlawful activity.

2 (3) It shall not be a defense to conspiracy to commit a  
3 financial crime that the person or persons with whom the  
4 accused is alleged to have conspired:

5 (A) has not been prosecuted or convicted;

6 (B) has been convicted of a different offense;

7 (C) is not amenable to justice;

8 (D) has been acquitted; or

9 (E) lacked the capacity to commit the offense.

10 (h) Continuing financial crimes enterprise. A person  
11 commits a continuing financial crimes enterprise when he or she  
12 knowingly, within an 18-month period, commits 3 or more  
13 separate offenses constituting any combination of the  
14 following:

15 (1) an offense under this Section;

16 (2) a felony offense in violation of Section 16A-3 or  
17 paragraph (4) or (5) of subsection (a) of Section 16-1 of  
18 this Code for the purpose of reselling or otherwise  
19 re-entering the merchandise in commerce, including  
20 conveying the merchandise to a merchant in exchange for  
21 anything of value; or

22 (3) if involving a financial institution, any other  
23 felony offense ~~offenses~~ under this Code.

24 (i) Organizer of a continuing financial crimes enterprise.

25 (1) A person commits being an organizer of a continuing  
26 financial crimes enterprise when he or she:

1 (A) with the intent to commit any offense ~~under~~  
2 ~~this Section,~~ agrees with another person to the  
3 commission of any combination of the following  
4 offenses on 3 or more separate occasions within an  
5 18-month period:

6 (i) an offense under this Section;

7 (ii) a felony offense in violation of Section  
8 16A-3 or paragraph (4) or (5) of subsection (a) of  
9 Section 16-1 of this Code for the purpose of  
10 reselling or otherwise re-entering the merchandise  
11 in commerce, including conveying the merchandise  
12 to a merchant in exchange for anything of value; or

13 (iii), if involving a financial institution,  
14 any other felony offense under this Code, ~~agrees~~  
15 ~~with another person to the commission of that~~  
16 ~~offense on 3 or more separate occasions within an~~  
17 ~~18-month period; and~~

18 (B) with respect to the other persons within the  
19 conspiracy, occupies a position of organizer,  
20 supervisor, or financier or other position of  
21 management.

22 (2) The person with whom the accused agreed to commit  
23 the 3 or more offenses under this Section, or, if involving  
24 a financial institution, any other felony offenses under  
25 this Code, need not be the same person or persons for each  
26 offense, as long as the accused was a part of the common

1 scheme or plan to engage in each of the 3 or more alleged  
2 offenses.

3 (j) Sentence.

4 (1) Except as otherwise provided in this subsection, a  
5 violation of this Section, the full value of which:

6 (A) does not exceed \$500, is a Class A misdemeanor;

7 (B) does not exceed \$500, and the person has been  
8 previously convicted of a financial crime or any type  
9 of theft, robbery, armed robbery, burglary,  
10 residential burglary, possession of burglary tools, or  
11 home invasion, is guilty of a Class 4 felony;

12 (C) exceeds \$500 but does not exceed \$10,000, is a  
13 Class 3 felony;

14 (D) exceeds \$10,000 but does not exceed \$100,000,  
15 is a Class 2 felony;

16 (E) exceeds \$100,000, is a Class 1 felony.

17 (2) A violation of subsection (f) is a Class 1 felony.

18 (3) A violation of subsection (h) is a Class 1 felony.

19 (4) A violation for subsection (i) is a Class X felony.

20 (k) A "financial crime" means an offense described in this  
21 Section.

22 (l) Period of limitations. The period of limitations for  
23 prosecution of any offense defined in this Section begins at  
24 the time when the last act in furtherance of the offense is  
25 committed.

26 (m) Forfeiture. Any violation of subdivision (2) of

1 subsection (h) or subdivision (i) (1) (A) (ii) shall be subject to  
2 the remedies, procedures, and forfeiture as set forth in  
3 subsections (f) through (s) of Section 29B-1 of this Code.

4 (Source: P.A. 96-1551, eff. 7-1-11; incorporates P.A. 96-1532,  
5 eff. 1-1-12; revised 3-23-11.)

6 Section 95. No acceleration or delay. Where this Act makes  
7 changes in a statute that is represented in this Act by text  
8 that is not yet or no longer in effect (for example, a Section  
9 represented by multiple versions), the use of that text does  
10 not accelerate or delay the taking effect of (i) the changes  
11 made by this Act or (ii) provisions derived from any other  
12 Public Act.

13 Section 99. Effective date. This Act takes effect July 1,  
14 2011.".